



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55; and
- a monetary order for unpaid rent pursuant to section 67.

The tenant did not attend this hearing, although I waited until 10:45 a.m. in order to enable the tenant to connect with this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord provided a witnessed statement confirming that she posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenant's door at 9:55 a.m. on October 22, 2011. The landlord submitted a copy of this 10 Day Notice into written evidence. The landlord testified that she sent a copy of her dispute resolution hearing package to the tenant by registered mail on November 4, 2011. She provided the Canada Post Tracking Number of this mailing. I am satisfied that the landlord served the above documents and her written evidence to the tenant in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent? Is the landlord entitled to a monetary award for unpaid rent?

Background and Evidence

This periodic tenancy commenced on October 7, 2011 by way of a written tenancy agreement, entered into written evidence by the landlord. Monthly rent was set at \$550.00.

The landlord testified that the tenant paid her \$275.00 security deposit on October 7, 2011, but has not paid any rent during this tenancy. The landlord applied for a monetary award of \$479.80, the amount that she calculated as owing when the landlord submitted her application for dispute resolution. At the hearing, the landlord asked for additional rent outstanding since she applied for dispute resolution.

Analysis - Order of Possession

The tenant failed to pay the October 2011 rent within five days of receiving the 10 Day Notice. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of her tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by November 4, 2011. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Analysis – Monetary Award

Based on the undisputed evidence provided by the landlord, I find that the landlord is entitled to a monetary award in the amount of \$443.55 in pro-rated rent owing for October 2011 and \$550.00 in rent owing for November 2011.

Although the landlord's application does not seek to retain the tenant's \$275.00 security deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the security deposit in partial satisfaction of the monetary award. No interest is payable over this period.

Conclusion

I provide the landlord with a formal copy of an Order of Possession to take effect within 2 days of the landlord's service of this notice to the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary Order in the landlord's favour in the following terms which allows the landlord to recover unpaid rent and to retain the tenant's security deposit to partially offset the landlord's losses.

Item	Amount
Unpaid October 2011 Rent (25/31 x \$550.00 = \$443.55)	\$443.55
Unpaid November 2011 Rent	550.00
Less Security Deposit	-275.00
Total Monetary Order	\$718.55

The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to

comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: November 22, 2011

Residential Tenancy Branch